

WILLIAM B. MANN AND N. H. FARQUHAR.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS
TRANSMITTING A COPY OF THE FINDINGS OF THE COURT IN
THE CASES OF WILLIAM B. MANN AND OF N. H. FARQUHAR
AGAINST THE UNITED STATES.

FEBRUARY 18, 1904.—Referred to the Committee on Claims and ordered to be printed.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, February 16, 1904.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact filed by the court in each of the aforesaid causes, which cases were referred to this court by resolution of the Senate of the United States, under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

HON. WILLIAM P. FRYE,
President of the Senate pro tempore.

[Court of Claims. Congressional case No. 10942-456. William B. Mann v. The United States.]

STATEMENT OF CASE.

The claim in the above-entitled case for difference between sea pay and shore pay while claimant was serving as an officer in the Navy of the United States, to wit, a surgeon upon receiving and other ships belonging to the Navy, was transmitted to the court by Senate resolution on the 4th day of June, 1902, referring Senate bill No. 5949, for proceedings and report under the provisions of the act of Congress approved March 3, 1887.

The case was brought to a hearing on its merits on the 9th day of February, 1904. Messrs. Pennebaker & Jones appeared for claimant, and the Attorney-General, by L. A. Pradt, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

The claimant in his petition makes substantially the following allegations:

This claim was previously presented to the proper accounting officers of the Treasury Department for settlement and was allowed by such accounting officers under the decision of this court and of the Supreme Court of the United States in the case of *Strong v. The United States* (125 U. S., 656), the sum thus allowed being \$183.49. This action was reported to Congress by the Secretary of the Treasury in Senate Executive Document No. 211, Fifty-first Congress, first session. In appropriating for said allowance (and others of like character) Congress made the following proviso:

That no part of any one of the claims to which this appropriation is applicable shall be paid therefrom which accrued more than six years prior to the date of the filing of the petition in the Court of Claims upon which the judgment was rendered,

which, being affirmed by the Supreme Court, has been adopted by the accounting officers as the basis for the allowance of said claim.

Act approved September 30, 1890.

Thereafter, pursuant to said proviso, the accounting officers readjusted said claim for such difference of pay, as the same had been settled under the said decision in United States against Strong, and refused to allow that portion which accrued more than six years prior to July 17, 1886, the date on which the petition in the said case of Strong *v. The United States* was filed in the Court of Claims. Upon such readjustment there was found to be due and then paid to claimant's decedent, out of said appropriation, the sum of nothing, being the amount which accrued subsequent to July 16, 1880, and to which said proviso did not relate.

The accounting officers also found that the difference in pay between that received prior to July 16, 1880, and that to which claimant would have been entitled under the decision in United States against Strong, had Congress not prohibited the payment of the same, was \$183.49.

Subsequent appropriation statutes have contained the same proviso, and the accounting officers of the Treasury, pursuant to said provisions, have continuously refused to allow this and other similar claims, and the same are still unpaid.

The court, upon the evidence and the report of the Treasury Department, and after considering briefs and arguments of counsel on both sides, makes the following

FINDING OF FACTS.

Claimant is a citizen of the United States and was an officer in the Navy thereof, and is a resident of the State of New York, and is the identical person whose claim under the decision of the Supreme Court of the United States in United States *v. Strong* (125 U. S., 656) was adjudged by the accounting officers, reported to Congress, and appropriated for as alleged in the petition.

The amount found due claimant by the accounting officers under said decision was \$183.49; the amount paid claimant was nothing; the amount suspended under the proviso to the act of Congress approved September 30, 1890, and which still remains unpaid is \$183.49.

BY THE COURT.

Filed February 15, 1904.

A true copy of the finding of facts as filed by the court.

Test this 16th day of February, 1904.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[Court of Claims. Congressional case No. 10942-457. N. H. Farquhar *v. The United States*.]

STATEMENT OF CASE.

The claim in the above-entitled case for difference between sea pay and shore pay while claimant was serving as an officer in the Navy of the United States, to wit, a lieutenant-commander, upon receiving and other ships belonging to the Navy, was transmitted to the court by Senate resolution on the 4th day of June, 1902, referring Senate bill No. 5949 for proceedings and report under the provisions of the act of Congress approved March 3, 1887.

The case was brought to a hearing on its merits on the 9th day of February, 1904. Messrs. Pennebaker & Jones appeared for claimant, and the Attorney-General, by L. A. Pradt, esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The claimant in his petition makes substantially the following allegations:

This claim was previously presented to the proper accounting officers of the Treasury Department for settlement, and was allowed by such accounting officers under the decision of this court and of the Supreme Court of the United States in the case of Strong *v. The United States* (125 U. S., 656), the sum thus allowed being \$1,173.26. This action was reported to Congress by the Secretary of the Treasury in House Executive Document No. 199, Fifty-second Congress, first session. In appropriating for said allowance (and others of like character) Congress made the following proviso:

That no part of any one of the claims to which this appropriation is applicable shall be paid therefrom which accrued more than six years prior to the date of the filing of the petition in the Court of Claims upon which the judgment was rendered, which

being affirmed by the Supreme Court has been adopted by the accounting officers as the basis for the allowance of said claim.

Act approved July 28, 1892.

Thereafter, pursuant to said proviso, the accounting officers readjusted said claim for such difference of pay as the same had been settled under the said decision in United States against Strong, and refused to allow that portion which accrued more than six years prior to July 17, 1886, the date on which the petition in the said case of Strong *v. The United States* was filed in the Court of Claims. Upon such readjustment there was found to be due, and then paid to claimant's decedent out of said appropriation, the sum of nothing, being the amount which accrued subsequent to July 16, 1880, and to which said proviso did not relate.

The accounting officers also found that the difference in pay between that received prior to July 16, 1880, and that to which claimant would have been entitled under the decision in United States against Strong had Congress not prohibited the payment of the same, was \$1,173.26.

Subsequent appropriation statutes have contained the same proviso, and the accounting officers of the Treasury, pursuant to said provisions, have continuously refused to allow this and other similar claims, and the same are still unpaid.

The court, upon the evidence and the report of the Treasury Department, and after considering briefs and arguments of counsel on both sides, makes the following:

FINDING OF FACTS:

Claimant is a citizen of the United States and an officer in the Navy thereof, appointed as such from the State of Pennsylvania, and is the identical person whose claim under the decision of the Supreme Court of the United States in *United States v. Strong* (125 U. S., 656) was adjusted by the accounting officers, reported to Congress, and appropriated for as alleged in the petition.

The amount found due claimant by the accounting officers under said decision was \$1,173.26; the amount paid claimant was nothing; the amount suspended under the proviso to the act of Congress approved July 28, 1892, and which still remains unpaid is \$1,173.26.

BY THE COURT.

Filed February 15, 1904.

A true copy of the finding of facts as filed by the court.

Test this 16th day of February, 1904.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

